

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/786,171 Confirmation No.: 9141
First Named Inventor : Robert FROST
Filed : February 26, 2004
TC/A.U. : 1744
Examiner : Kevin Joyner

Docket No. : 029082.53185US
Customer No. : 23911

Title : Process for Operating a Packaging Transport
System

**RESPONSE TO DECISION ON PETITION
AND
RENEWED PETITION TO RESET PERIOD FOR REPLY
DUE TO NON-RECEIPT OF NOTICE OF
NON-COMPLIANT AMENDMENT**

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In August 27, 2008 a Decision was issued in response to the Applicants' July 11, 2008 Petition to reset the period for response due to non-receipt of a Notice of Non-Compliant Amendment. The Decision noted the Petition to have been accepted as timely filed, but denied the Petition due to failure to state that: (i) the Notice of Non-Compliant Amendment mailed December 7, 2007 was not received, (ii) a search of the file and docket records was made, and (iii) the search revealed that the Notice of Non-Compliant Amendment was not received.

In response to the Decision, the Applicants respectfully note that the Petitioner did state that the Notice was not received (July 11, 2008 Petition ¶ 1),

and that this was confirmed by review of the matter by the docket department of Petitioner's counsel (July 11, 2008 Petition ¶ 4; Declaration of Tanya Che).

Nonetheless, the Petitioner notes that Ms. Che's declaration did not contain an explicit statement that a search of the files, as well as the docket records, was performed, and that the December 5, 2007 Notice of Non-Compliant Amendment was not found. While a physical search for the December 5, 2007 Notice of Non-Compliant Amendment was in fact conducted and the Notice was not located, the physical search was not separately identified in Ms. Che's Declaration, as the undersigned considered such a search to be an inherent component of a comprehensive review to try to locate official correspondence.

In view of the foregoing, in order to provide the information identified in the August 27, 2008 Decision, the Applicants are submitting herewith a revised Declaration of Tanya Che. This declaration explicitly states that a physical search of the files was made, that a search of the docket records was made (as evidenced by the docket record attachments provided with Ms. Che's previous July 11, 2008 Declaration), and that the search revealed that the December 5, 2008 Notice of Non-Compliant Amendment was not received.

For the reviewer's convenience, the following restates the grounds of the July 11, 2008 Petition, with additions reflecting the revised declaration underlined. A copy of the July 11, 2008 Petition, Declaration and its Exhibits A and B is also attached hereto.

July 11, 2008 Petition Statements:

It is respectfully requested that the period for reply to the Notice of Non-Compliant Amendment mailed on December 5, 2007, be reset. Resetting of the period for reply pursuant to MPEP § 711.03 is appropriate because this Notice of Non-Compliant Amendment was never received by Crowell & Moring, whose correspondence address is the mailing address of record in this application.

Attached to this petition is a Declaration by Ms. Tanya Che, manager of the Docketing Department of Crowell & Moring LLP. The attached petition includes exhibits that contain confidential information not relevant to this application, and accordingly the confidential information has been redacted. The undersigned's personal knowledge of the relevant facts is as follows:

1. On May 20, 2008, the undersigned's assistant, Ms. Gayle Morris, was reviewing the undersigned's docket, which included a status check due on May 20, 2008, in the above-identified application.
2. Ms. Morris accessed USPTO's PAIR system to determine the status of the above-identified application. Ms. Morris discovered that the PAIR system indicated that a Notice of Non-Compliant Amendment had been mailed on December 5, 2007.
3. Ms. Morris was informed by the Crowell & Moring Docketing Department that this Notice had not been received and entered into Crowell & Moring's docketing software.
4. Ms. Che informed the undersigned of the facts set forth in the attached Declaration. Specifically, Ms. Che informed the undersigned that if the

Notice had been received by Crowell & Moring on or after December 5, 2007, it would have been entered in the docketing system. For example, if the Notice had been received on December 6, 2007, it would have been entered on December 7 or December 8, 2007. Ms. Che provided the undersigned with a report that listed all matters docketed on December 7 or December 8, 2007, and the above-identified matter was not listed as having a docketed action. Further, there is no record of receipt and docket entry of the Notice on any date following December 5, 2007. In addition, a physical search of the firm's files and records was conducted and the December 5, 2007 Notice was not found. Ms. Che thus confirmed that "upon the completion of a thorough search of the identified file wrapper, the records department spaces, and the firm's docketing records, the Notice of Non-Compliant Amendment mailed December 5, 2007 was not found, and was not received nor docketed in this office."

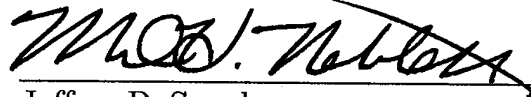
Based on the forgoing, it is the belief of the undersigned that this Notice was not received by Crowell & Moring. Accordingly, the undersigned respectfully requests that the date of notice of the outstanding Notice of December 5, 2007, be re-dated and the outstanding period of response runs from the new date.

If there are any further questions regarding the sufficiency of this Renewed Petition, or regarding any other matter, the undersigned would greatly appreciate a telephone call to (202) 624-2941 to help expedite the processing of the Petition.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 029082.53185US).

September 3, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M.H. Neblett", written over a horizontal line.

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